

**MINUTES OF THE MEETING
OF THE
BOARD OF ZONING ADJUSTMENT**
Tuesday October 28, 2014

The Board of Zoning Adjustment held its regular meeting on Tuesday, October 28, 2014, in the Council Chambers on the 26th Floor of City Hall and the following members were:

PRESENT:

Ms. Theresa Otto	Chair
Mr. Richard Osborn	Member
Mr. Tom Stiller	Member (arrived late 1:04)
Mr. Quinton Lucas	Member
Mr. Mark Ebbitts	Member, Alternate 1
Mr. Coby Crowl	Member, Alternate 2
Mr. Tony Bonuchi	Member, Alternate 3

ABSENT:

Mr. Mike Keleher	Vice Chair
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ALSO PRESENT:

Ms. Diane Binckley	Assistant Secretary
Mr. Justin Peterson	Staff
Mr. Joseph Rexwinkle	Staff
Ms. Marty Campbell	Recording Secretary
Ms. Sarah Baxter	Law Department
Mr. Tim Brookhauser	Development Services
Mr. Syrus Kalantar	Development Services
Mr. Kathleen Sellen	Court Reporter

All staff reports, photographic slides, video and files are hereby made a part of these minutes.

The meeting was called to order at 12:51 p.m., by swearing in staff members and others who desired to testify at the hearing.

CASE NO: 14511-A

APPLICANT: Dwayne Hodges
Hodges Garages
10334 Meadows Ln
Leawood, KS 66206

PROPERTY OWNER: Noreen Walsh
309 E. Dartmouth
Kansas City, MO 64113

AFFIDAVIT: Not received

LOCATION: 309 E. Dartmouth

AREA: 5,128 square feet

ZONING: R-6

REQUEST: To consider a request for a variance to minimum required side yard setback, a variance to the minimum required lot size for a residential use, a variance to the distance of a detached garage to the principal structure on the same lot, to allow for the construction of a detached garage, plus any other necessary variances.

Ms. Otto swore in Mr. Dwayne Hodges; he had a chance to review the staff report and had no objections to it or the Administrative Exhibits 1-13; they were admitted; Ms. Otto asked if there was anyone in the audience here on this matter; there was no other interested party present. A revised plan was admitted as Exhibit #14.

Mr. Justin Peterson, Staff Planner, summarized the Staff Report, Exhibit 9; and presented a power point of the subject property, Exhibit 13 and video, Exhibit 10.

Ms. Otto asked to hear from the applicant.

Mr. Hodges stated that the City had tagged that building as being dangerous; and the house next had been having violations since 2010; and she had been trying to get the building taken down to be in compliance; she had finally got it worked out through the attorneys and was ready to move forward; but the building did have to go down and she wanted to replace her half of it.

Ms. Otto asked if the other side would be coming down.

Mr. Hodges answered yes.

Ms. Otto asked if it would be a two or one car garage.

Mr. Hodges answered one car garage.

Ms. Otto asked if he knew when the gazebo was constructed.

Mr. Hodges responded he didn't know.

Ms. Otto admitted Exhibit #15 which was the Affidavit.

Mr. Ebbitts moved and Mr. Lucas seconded to **APPROVED THE FOLLOWING:**

- A variance to the minimum required side yard setback of a detached garage.
- A variance to the minimum distance of a detached garage from the primary structure on the same lot.
- A variance to the minimum distance of a detached garage from another accessory structure.
- A variance to the minimum required side yard setback of a principal structure.

Motion carried 5-0

Voting in support:	Otto, Osborn, Lucas, Ebbitts, and Crowl
Voting in opposition:	None
Absent:	Keleher, Stiller
Present but not voting:	Bonuchi

CASE NO: 13505-A-2, A-3, A-4

APPLICANT: Josh Billue
Marathon Music Works
1402 Clinton

Nashville, TN 37203

AGENT: Darryl Hawkins
Innovative Design & Renovation
2 West 52nd St.
Kansas City, MO 64112

AFFIDAVIT: Not required

LOCATION: 1604, 1609 and 1618 Locust St

AREA: 1.38 Acres

ZONING: M1-5

REQUEST: To consider a request for a variance:

- A. To the minimum required off-street parking spaces for the property located at 1604 Locust;
- B. To the minimum required interior landscaping for the parking lot located at 1609 Locust;
- C. To the minimum required interior landscaping for the parking lot located at 1618 Locust;
- D. To the minimum required landscaping buffer strip of a parking lot for the property at 1609 Locust;
- E. To the minimum required landscaping buffer strip of a parking lot for the property at 1618 Locust;

Mr. Justin Peterson, Staff Planner, stated the applicant was requesting a continuance to the December 9, 2014 meeting date.

Ms. Otto asked why the continuance.

Mr. Peterson responded the applicants were in the process of getting a liquor license and wanted to be sure they had that before they went ahead with their projects.

Mr. Osborn moved and Mr. Lucas seconded to **CONTINUE** this to the December 9, 2014 meeting with one \$130.00 fee (No Testimony – No Set Quorum).

Motion carried 5-0

Voting in support: Otto, Osborn, Lucas, Ebbitts, and Crowl

Voting in opposition: None
Absent: Keleher, Stiller
Present but not voting: Bonuchi

CASE NO: 14512-A

APPLICANT: Kennard McDaniel
7007 N. Holly Ct.
Kansas City, MO

AFFIDAVIT: Not required

LOCATION: 9720/9740 NE Staley Rd.

AREA: 19 acres

ZONING: R-80

REQUEST: To consider a request for a variance to allow an accessory building in the front yard, to allow for the construction of a house behind a proposed accessory structure, plus any other necessary variances.

Ms. Otto swore in Mr. Terrance McDaniel; he had a chance to review the staff report and had no objections to it or the Administrative Exhibits 1-13; they were admitted; Ms. Otto asked if there was anyone interested parties in the audience; there were no interested parties.

Mr. Justin Peterson, Staff Planner, summarized the Staff Report, Exhibit 9; and presented a power point of the subject property, Exhibit 13 and video, Exhibit 10.

Exhibit #14, statements were witnessed by Mr. McDaniel; Ms. Otto admitted it an Exhibit #15.

Ms. Otto asked if the property ever had a home built on it.

Mr. McDaniel stated it was not a home; the previous owner had built a nursery on it without permit and within the flood plain. He had to tear it down and at that time was when he purchased it. That was why they wanted to build back and stay away from the flood plain because it did flood up in there and hence the practical difficulty.

Mr. Lucas asked if they were planning a pecan operation here.

Mr. McDaniel stated yes; actually it was going to be a retirement fund; it would be 15 to 20 years before they would actually be able to produce anything; it wouldn't be commercial in that sense as far as a long term business they did plan on trying to make some money off it.

Mr. Osborn asked if the new equipment in the barn was it to harvest pecans.

Mr. McDaniel stated it just wasn't for that, it mainly would be to maintain the property, the creek, ways to spray the pecans, the trees as they grew. Until they were actually able to produce, they wouldn't be buying anything to actually harvest them; but the didn't want to come before them for a small building then have to come back for a larger building.

Mr. Lucas moved and Mr. Crowl seconded the motion to **APPROVE THE FOLLOWING:**

- A variance to allow an accessory building in the front yard.

Motion carried 5-0

Voting in support:	Otto, Osborn, Lucas, Ebbitts, and Crowl
Voting in opposition:	None
Absent:	Keleher, Stiller
Present but not voting:	Bonuchi

CASE NO: 14493-A

APPLICANT: Janette Cano
2046 Brighton
Kansas City, MO 64127

AFFIDAVIT: Not required

LOCATION: 2046 Brighton

AREA: 5,164 SF

ZONING: B1-1

REQUEST: To consider a Special Exception to the maximum allowed height of a fence in the front yard of a residential property, to allow an existing fence to remain.

Required Quorum: Otto, Keleher, Osborn, Ebbitts and Crowl; Also hearing testimony: Bonuchi)

Ms. Otto swore in Ms. Cana; she had a chance to review the staff report a new Administrative Exhibit 15 (the most current staff report); it was admitted; Ms. Otto asked if there was any interested parties in the audience; there were no interested parties.

Ms. Otto stated that the case was continued because she needed a survey; did she have a survey?

Ms. Cano answered no because she could not afford it.

Ms. Otto asked if she was telling them that she would not be in a position to get a survey.

Ms. Cano answered not at this moment; she worked part-time and was self-employed and it was the slow time of year and she didn't get as many hours as before; and she did try to get some estimates but they were pretty high.

Ms. Otto asked what kind of continuance she was asking for; what was pending that the survey has to resolve.

Mr. Peterson stated the location of the property line the fence constructed may be with the city's right of way.

Ms. Otto stated she didn't how the Board could grant any kind of variances to any fence unless they knew that it was strictly on her property. They couldn't continue it indefinitely; it was not within their power to do that; the Board might be able to give another short continuance but it wouldn't be a long time and if that was the case, then the fence would have to come down if she can't do that. It was a very solid type of fence she had constructed and there were traffic concerns; it needed to be taken care of. It needed to be taken down if it was in the right of way, they needed the survey to make a decision. She would like to see a survey by the next meeting in two weeks, because if she couldn't they couldn't make a decision and she would have to take it down.

Ms. Binckley stated the Board didn't meet on the 11th and wouldn't be back until the 25th so she would really be getting 4-weeks.

Mr. Bonuchi asked if they denied her motion what would be her plans.

Ms. Cano stated she was planning on keeping the house; she had invested a lot of money in it and the fence; she was really going to try and keep the fence.

Mr. Crawl moved and Mr. Ebbitts seconded to **CONTINUE** to the November 25, 2014 meeting date without fee (Without Testimony – No Required Quorum).

Motion carried 5-0

Voting in support:	Otto, Osborn, Ebbitts, Crawl and Bonuchi
Voting in opposition:	None
Recused:	Stiller, Lucas
Absent:	Keleher

Present but not voting: Bonuchi

CASE NO: 14008-A-2

APPLICANT: Gary L. Marvine
3939 Wyandotte Street
Kansas City, Mo 64111

PROPERTY OWNER: RJM Property
6501 Kansas Avenue
Kansas City, Ks 66111

AGENT: James C. Bowers
White Goss
4510 Belleview, Suite 300
Kansas City, Mo 64111

AFFIDAVIT: Received

LOCATION: 3939 Wyandotte Street

AREA: 6,453.85 SF

ZONING: R-6

REQUEST: To consider an appeal to the decision that the property is
being used for business offices in a residential district
where such activity is not permitted.

Ms. Patricia Jensen requested this matter be continued to January 27, 2015 meeting date without fee because they were still working with the neighbors.

Mr. Ebbitts moved and Mr. Osborn seconded to **CONTINUE** this matter to the January 27, 2015 meeting date without fee (Without Testimony – No Required Testimony)

Motion carried 5-0

Voting in support: Otto, Osborn, Stiller, Lucas, and Ebbitts
Voting in opposition: None
Absent: Keleher
Present but not voting: Crowl and Bonuchi

RE: Case No. 14445-SU-1

APPLICANT: Christian Arnold
Clockwork
423 Delaware St, No. 102
Kansas City, MO 64105

OWNER: Bill Bryant
Lead Bank
9019 S Hwy 7
Lee's Summit, MO 64064

LOCATION: Generally located at the southeast corner of 18th St and Main St.

REQUESTS: Approval of a major amendment to a previously-approved special use permit in District DX-15 (Downtown Mixed-Use (dash 15)) for a drive-through facility.

Ms. Otto swore in Mr. Christian Arnold; he had a chance to review the staff report and had no objections to it or the Administrative Exhibits 1-11; and they were admitted; she asked if there were any interested parties present and there were none.

Mr. Joseph Rexwinkle, Staff Planner, summarized the Staff Report, Exhibit 9; and presented a power point of the subject property, Exhibit 11.

Mr. Osborn moved and Mr. Stiller seconded to **APPROVE Case No. 14445-SU-1 SUBJECT TO THE FOLLOWING CONDITIONS:**

1. That one (1) collated, stapled and folded copies (and a CD containing a pdf file, a georeferenced monochromatic TIF file, and CAD/GIS compatible layer of the plan boundary referenced to the Missouri state plan coordinate system) of (a revised drawing /all listed sheets), revised as noted, be approved by the Development Management staff (15th Floor, City Hall) prior to building permit showing:
 - a. Signage details including material of construction, dimensions, method of illumination and total area in relation to the area of the façade (in square feet) upon which wall signs are placed be provided demonstrating compliance with 88-445.
2. That the Special Use Permit shall be issued for drive-through facility to serve only a bank. The Special Use Permit shall expire at such time that the drive-through is removed, the bank is replaced by a different use, or 10 years from date of approval by the Board of Zoning Adjustment, whichever may occur first.

Motion carried 5-0

Voting in support: Otto, Osborn, Stiller, Lucas, and Ebbitts
Voting in opposition: None
Absent: Keleher
Present but not voting: Crowl and Bonuchi

RE: Case No. 11353-SU-1

APPLICANT: Joseph Monachino, Jr.
St. Pius X High School
1500 NE 42nd Ter
Kansas City, MO 64116

OWNER: Catholic Diocese of Kansas City – St. Joseph
PO Box 419037
Kansas City, MO 64141

AGENT: David Eickman
Olsson Associates
1251 NW Briarcliff Pkwy, Suite 50
Kansas City, MO 64116

LOCATION: Generally located south of NE 42nd Ter and approximately 200 feet west of NE Davidson Rd.

REQUESTS: To consider approval of a special use permit in District R-6 (Residential 6) to allow for construction of outdoor athletic facilities at an existing school, and any necessary variances.

Ms. Otto swore in Mr. David Eichman, Olsson Associates; he had a chance to review the staff report and had no objections to it or the Administrative Exhibits 1-11; and they were admitted; she asked if there were any interested parties present and there were none.

Mr. Joseph Rexwinkle, Staff Planner, summarized the Staff Report, Exhibit 9; and presented a power point of the subject property, Exhibit 11.

Mr. Eichman stated the tennis courts would not be open to the public but only for the schools' tennis teams.

Mr. Lucas moved and Mr. Ebbitts seconded to **APPROVE Case No. 11353-SU-1 SUBJECT TO THE FOLLOWING CONDITIONS:**

1. That one (1) collated, stapled and folded copies (and a CD containing a pdf file, a georeferenced monochromatic TIF file, and CAD/GIS compatible layer of the plan

boundary referenced to the Missouri state plan coordinate system) of the plans, revised as noted, be approved by the Development Management staff (15th Floor, City Hall) prior to building permit showing:

2. All references on the plan to it being a “final plan” and replaced with “special use permit for a school and religious assembly use”.
3. A fully-dimensioned site plan.
4. Identify all retaining walls and fences, if any, including their height and material.
5. Provide the days and hours of operation of the proposed tennis courts and whether there will be seating for spectators on the plans.
6. Existing property lines identifying point of beginning and distances and bearings of property lines, consistent with the legal description
7. Identification and written dimensions of the width from centerline and total width of existing perimeter and interior streets, other rights-of-way, and all existing easements.
8. Identification and written dimensions of the total width of pavement of existing streets.
9. Location and written dimensions of the widths of existing or proposed private vehicular access into the property from perimeter streets and location of existing or approved accesses on properties adjacent or opposite the property, with off-set dimension from the centerlines of such streets and private access.
10. Location of proposed tennis courts, existing buildings and structures to remain, with written dimensions of setback from proposed street right-of-way and adjacent property lines, dimensions of building width and length, number of floors, gross floor area per floor, and total building area.
11. Show adjacent properties on the plan including lot lines, building footprint, zoning and use.
12. Identification of proposed or existing use or uses within each building, building entrances and exits, docks or other service entrances, outdoor storage and sales areas, and other paved areas.
13. Location of proposed or existing parking spaces, aisles, and drives with written setback dimensions from proposed street rights-of-way and adjacent property lines; typical width and length of parking spaces; number of parking spaces per row; and width of parking aisles.
14. Provide grading plan showing all existing and proposed contours as well as all retaining walls, their top/bottom elevations and material.
15. If outdoor lighting is proposed, provide a lighting plan with photometric study showing 0.18 footcandles along the right-of-way line and residential property lines. If no lighting is proposed, provide a note on the plan stating such and therefore no outdoor lighting plan is provided.
16. Height above grade of buildings and structures and number of floors of each building.
17. Gross floor area per floor and total for each building.
18. Building coverage and floor area ratio.
19. Ratio of required number of parking spaces for each use and amount of required, proposed parking spaces.

20. Please contact Brett Cox at brett.cox@kcmo.org or 816 513-2509 for more information on the following conditions.
21. Graphically show proposed BMP/Storm Water Management concept on the plan.
22. The developer must submit and have approved a detailed Micro storm drainage study to Development Services, in general compliance with adopted standards, including a BMP level of service analysis, and that the developer secure permits to construct any improvements as required by the Land Development Division prior to approval and issuance of any building permits to modify the site.
23. The owner/developer must secure a Site Disturbance permit from the Land Development Division prior to beginning any construction, grading, clearing, or grubbing activities, if the disturbed area equals one acre or more during the life of the construction activity.

Motion carried 5-0

Voting in support:	Otto, Osborn, Stiller, Lucas, and Ebbitts
Voting in opposition:	None
Absent:	Keleher
Present but not voting:	Crowl and Bonuchi

RE: Case No. 14510-SU

APPLICANT: Joseph Monachino, Jr.
St. Pius X High School
1500 NE 42nd Ter
Kansas City, MO 64116

OWNER: Catholic Diocese of Kansas City – St. Joseph
PO Box 419037
Kansas City, MO 64141

AGENT: David Eickman
Olsson Associates
1251 NW Briarcliff Pkwy, Suite 50
Kansas City, MO 64116

LOCATION: Generally located west of NE Davidson Rd and north of NE 42nd Ter.

REQUESTS: To consider approval of a special use permit in District R-6 (Residential 6) to allow for parking lot expansion and reconfiguration for an existing school, and any necessary variances.

Ms. Otto swore in Mr. David Eichman, Olsson Associates; he had a chance to review the staff report and had no objections to it or the Administrative Exhibits 1-11; and they were admitted; she asked if there were any interested parties present and there were none.

Mr. Joseph Rexwinkle, Staff Planner, summarized the Staff Report, Exhibit 9; and presented a power point of the subject property, Exhibit 11.

Mr. Lucas moved and Mr. Ebbitts seconded to **APPROVE Case No. 14510-SU SUBJECT TO THE FOLLOWING CONDITIONS:**

1. That one (1) collated, stapled and folded copies (and a CD containing a pdf file, a georeferenced monochromatic TIF file, and CAD/GIS compatible layer of the plan boundary referenced to the Missouri state plan coordinate system) of (a revised drawing /all listed sheets), revised as noted, be approved by the Development Management staff (15th Floor, City Hall) prior to building permit showing:
2. All references on the plan to it being a “final plan” replaced with “special use permit for a school”.
3. Clearly delineate all property lines.
4. All retaining walls and fences, including their height and material.
5. Identification and written dimensions of the width from centerline and total width of existing perimeter and interior streets, other rights-of-way, and all existing easements.
6. Identification and written dimensions of the total width of pavement of existing streets.
7. Location and written dimensions of the widths of existing or proposed private vehicular access into the property from perimeter streets and location of existing or approved accesses on properties adjacent or opposite the property, with off-set dimension from the centerlines of such streets and private access.
8. Adjacent properties on the plan including lot lines, building footprint, zoning and use.
9. Proposed or existing use or uses within each building, building entrances and exits, docks or other service entrances, outdoor storage and sales areas, and other paved areas.
10. The setback of the parking areas from all property lines and right-of-way lines and dimensions of parking spaces and drive aisles.
11. Provide grading plan identifying all retaining walls, their height and material.
12. Revised lighting plan showing a point by point array along the west, south and north property lines demonstrating compliance with 88-430-06.
13. The height above grade of buildings and structures and number of floors of each building.
14. The gross floor area per floor and total for each building.
15. The building coverage and floor area ratio.
16. The ratio of required number of parking spaces for each use and amount of required, proposed parking spaces in compliance with 88-420-06.
17. Bicycle parking in compliance with 88-420-09.
18. Perimeter landscaping of vehicular use areas in compliance with 88-425-05.
19. Interior landscaping of vehicular use areas in compliance with 88-425-06.

20. A sidewalk along the south side of NE 44th St from the west property line eastward to at least the entrance drive of the parking lot.
21. A sidewalk along the north side of NE 42nd Ter.
22. Sidewalks connecting the public sidewalks along NE 44th and NE 42nd Ter to the building entrances.
23. Please contact Brett Cox at brett.cox@kcmo.org or 816 513-2509 for more information on the following conditions.
24. Graphically show proposed BMP/Storm Water Management concept on the plan.
25. The developer must submit and have approved a detailed Micro storm drainage study to Development Services, in general compliance with adopted standards, including a BMP level of service analysis, and that the developer secure permits to construct any improvements as required by the Land Development Division prior to approval and issuance of any building permits to modify the site.
26. The owner/developer must secure a Site Disturbance permit from the Land Development Division prior to beginning any construction, grading, clearing, or grubbing activities, if the disturbed area equals one acre or more during the life of the construction activity.

Motion carried 5-0

Voting in support:	Otto, Osborn, Stiller, Lucas, and Ebbitts
Voting in opposition:	None
Absent:	Keleher
Present but not voting:	Crowl and Bonuchi

There being no further business, the meeting was adjourned at 1:46 p.m.

Respectfully submitted,

Diane M. Binckley, AICP
Assistant Secretary

APPROVED:

Theresa Otto, Chairperson